

CRM-M-29026-2020

Date of decision: 28.09.2020

RAHUL KATARIA

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Nagar Singh, Advocate for
Mr. Anirudh Singh Shera, Advocate, for the petitioner.

Mr. Amrik Singh Narwal, DAG, Haryana.

(The case has been taken up through video conferencing on account of Covid-19 Pandemic).

VIVEK PURI, J. (ORAL)

Briefly, the FIR bearing No. 588 dated 28.09.2019, under Sections 365 IPC, 1860, later on added Sections 148/149/364/302/120-B, 109 IPC, 1860, at Police Station Sector-10, Gurugram has been registered on the statement of Hari Om alleging that on 27.09.2019 that his cousin Sanjeev was sitting in the house of the petitioner, meanwhile Joni and Moni alongwith 8-10 boys came in a Swift car and two motorcycles. They had a talk with Sanjeev and Joni took Sanjeev out of the house, made him into sit in the Swift car and ran away. The petitioner and other persons also chased them on the motorcycles and effort was made to search Sanjeev but no effect.

It has been contended by the learned counsel for the petitioner that

the co-accused namely Joni has been released on bail. Furthermore, there is no

direct evidence against the petitioner and has been falsely implicated in the instant case and he has been charged under Section 109 IPC.

On the contrary it has been pointed out by the learned State counsel that the petitioner has been named in the FIR as the deceased was sitting in his house. Subsequently, the co-accused took the deceased with them from the house of the petitioner and killed him by means of fire arm injuries. It has been further stated that subsequently, the offence under Sections 302 and 120-B IPC have also been added. The deceased was taken from the house of the petitioner and moreover, there is mobile conversation between the petitioner and the co-accused at the time of incident.

It may be mentioned here that the co-accused Joni has been granted bail as per the proviso of Section 167 (2) Cr.P.C. Consequently, the said order cannot enure any benefit to the petitioner qua whom the challan has been presented in time. There are serious allegations levelled against the petitioner. He was a perpetrator to the conspiracy in pursuance whereof the deceased was earlier abducted and subsequently killed by the co-accused. The implication of the petitioner in the conspiracy is also evident from the call details and the disclosure statement of the co-accused. There is specific and categorical allegation in the FIR that there was previous enmity with the petitioner and on that score Sanjeev was abducted.

Faced with this situation, it has been pointed out by the learned counsel for the petitioner that charge under Section 109 IPC only has been framed against the petitioner and no charge under Section 120-B IPC has been framed. In this regard, it may be mentioned here that as per the provisions of Section 216 Cr.P.C, the charge can be altered or added at any stage of trial. The petitioner was having enmity with the deceased. He facilitated the abduction and

In these set of circumstances, no justified ground is made out to extend the concession of bail to the petitioner.

In view of the above, the present petition is dismissed.

28.09.2020
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No